

10:35 am, Sep 21, 2018

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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PATRICIA HORN,

Plaintiff,

-against-

NANCY A. BERRYILL, Acting Commissioner
of Social Security

Defendant.
-----X

**MEMORANDUM OF
DECISION & ORDER**
2:17-cv-00057 (ADS)(ARL)

U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

APPEARANCES:

Goldsmith & Tortora

Counsel for the Plaintiff

2067 Jericho Turnpike

Commack, NY 11725

By: Craig Joseph Tortora, Esq., Of Counsel.

Social Security Administration

United States Attorney's Office

610 Federal Plaza

Central Islip, NY 11722

By: Megan Jeanette Freismuth, Esq., Of Counsel.

SPATT, District Judge:

On January 5, 2017, plaintiff Patricia Horn (the "Plaintiff") commenced this action pursuant to the Social Security Act, 42 U.S.C. § 405(g) seeking judicial review of a final decision of defendant Nancy A. Berryhill (the "Commissioner" or the "Defendant"), the acting commissioner of the Social Security Administration ("SSA") at the time of filing, which denied her application for disability insurance benefits. ECF 1.

On June 28, 2017, Plaintiff moved for judgment on the pleadings. ECF 8. Defendant cross moved for judgment on the pleadings on November 15, 2017. ECF 15.

On March 1, 2018, the Court referred the cross-motions to United States Magistrate Judge Arlene R. Lindsay for a recommendation as to whether the cross motions for judgment on the pleadings for either party should be granted, and if so, what relief should be ordered.

On September 5, 2018, Judge Lindsay issued a Report and Recommendation (“R&R”) recommending that this matter be remanded to the Administrative Law Judge (“ALJ”) to allow the ALJ to properly develop and clarify his reasons for his decision. Judge Lindsay electronically served a copy of the R&R on all parties the same day.

It has been more than fourteen days since the service of the R&R, and the parties have not filed objections.

As such, pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, this Court has reviewed the R&R for clear error, and finding none, now concurs in both its reasoning and its result. *See Coburn v. P.N. Fin.*, No. 13-CV-1006 (ADS) (SIL), 2015 WL 520346, at *1 (E.D.N.Y. Feb. 9, 2015) (reviewing Report and Recommendation without objections for clear error).

Accordingly, the R&R is adopted in its entirety. This case shall be remanded to the ALJ to develop and clarify his decision as set forth in the R&R. The Clerk of the Court is respectfully directed to close this case.

SO ORDERED.

Dated: Central Islip, New York

September 21, 2018

/s/ Arthur D. Spatt

ARTHUR D. SPATT

United States District Judge